

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ANDRE L. REVIS,

Plaintiff,

v.

MOORE, *et al.*,

Defendants.

Case No. 1:22-cv-01189-JLT-BAM (PC)

ORDER CONSTRUING PLAINTIFF'S
OBJECTIONS AS A MOTION FOR
EXTENSION OF TIME
(ECF No. 7)

ORDER GRANTING MOTION FOR
EXTENSION OF TIME TO FILE SIGNED
COMPLAINT
(ECF No. 7)

ORDER VACATING FINDINGS AND
RECOMMENDATIONS TO DISMISS
ACTION, WITHOUT PREJUDICE, FOR
FAILURE TO OBEY COURT ORDER AND
FAILURE TO PROSECUTE
(ECF No. 5)

THIRTY (30) DAY DEADLINE

Plaintiff Andre L. Revis ("Plaintiff") is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983.

On September 26, 2022, the Court issued an order directing Plaintiff to submit a completed application to proceed *in forma pauperis* or pay the \$402.00 filing fee to proceed with this action and to file a signed complaint, not to exceed 25 pages in length, or a notice of voluntary dismissal. (ECF No. 4.) The Court expressly warned Plaintiff that failure to comply with the Court's order would result in dismissal of this action, without prejudice. (*Id.* at 2.)

1 On November 1, 2022, the Court received the \$402.00 filing fee for this action from the
2 State of California on behalf of Andre Revis V97325. (Receipt #CAE100051557, dated
3 November 1, 2022.) However, Plaintiff did not file a signed complaint or a notice of voluntary
4 dismissal by the Court's deadline.

5 Therefore, on November 30, 2022, the Court issued findings and recommendations to
6 dismiss this action, without prejudice, for failure to obey a court order and failure to prosecute.
7 (ECF No. 5.) Plaintiff was directed to file any objections to the findings and recommendations
8 within fourteen (14) days after service. (*Id.*)

9 On December 9, 2022, Plaintiff filed objections to the findings and recommendations and
10 a request for an extension of time. (ECF No. 7.) Plaintiff states that he attempted to timely file a
11 signed complaint, and he would not have paid the filing fee if he did not intend to prosecute this
12 action. Plaintiff states that if the Court has no record of his signed complaint, he needs additional
13 time to access the law library to obtain a new copy of the complaint to submit to the Court.
14 Plaintiff requests an extension of thirty days to submit a properly signed complaint. (*Id.*)

15 As it appears Plaintiff attempted to timely file his signed complaint, the Court finds that
16 Plaintiff has presented good cause for a brief extension of time to file a properly signed
17 complaint. Accordingly, the Court finds it appropriate to vacate the pending findings and
18 recommendations, issued on November 30, 2022. (ECF No. 5.) After Plaintiff files a properly
19 signed complaint, it will be screened in due course.

20 Accordingly, IT IS HEREBY ORDERED as follows:

- 21 1. Plaintiff's December 9, 2022 objections, (ECF No. 7), are CONSTRUED as a motion for
22 extension of time;
- 23 2. Plaintiff's motion for extension of time to file a signed complaint, (ECF No. 7), is
24 GRANTED;
 - 25 a. Within **thirty (30) days** from the date of service of this order, Plaintiff SHALL file
26 a signed complaint, **not to exceed 25 pages in length**, or a notice of voluntary
27 dismissal; and

28 ///

b. **Plaintiff is warned that the failure to comply with this order will result in dismissal of this action, without prejudice;** and

3. The findings and recommendations issued on November 30, 2022, (ECF No. 5), are VACATED.

IT IS SO ORDERED.

Dated: **December 12, 2022**

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE